

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 427 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GIRJASHANKER JADAVJI RAVAL

Versus

STATE OF GUJARAT

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Appearance:

MR BB NAIK for Petitioner  
MR LR PUJARI for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/03/98

ORAL JUDGMENT

The petitioner, a police constable of the Police Department of the State of Gujarat, filed this Special Civil Application and prayer has been made for quashing and setting aside the notice annexure 'A' dated 19.1.87 of Police Superintendent (Administration) at Ahmedabad, under which the petitioner was directed to vacate the Government Quarter forthwith. It was also stated in the said notice that in case he does not vacate the Quarter, he will be charged rent at the market rate and action u/s.31(2) of the Bombay Police Act will be taken against him to get the Government Quarter vacated. Further prayer has been made by petitioner for directing the

respondents not to recover rent at the market rate from him for the Quarter in his possession till he vacates the same. Third prayer has been made for direction to the respondents to grant the Government Quarter in occupation of the petitioner on permanent basis at a reasonable price. So far as the third prayer is concerned, the learned counsel for the petitioner does not press the same.

2. The learned counsel for the petitioner stated that the petitioner has already vacated the Quarter during the pendency of this Special Civil Application and as such, the only dispute which now remains is of charging rent from the petitioner at the market rate.

3. This Court has protected the petitioner by grant of interim relief and as such, he continued in occupation of the Quarter during this period under the order of this Court. It is true that interim relief is subject to the final decision in the Special Civil Application but it is also equally true that the petitioner has already retired from services and he is a low paid employee. Further, after the notice annexure 'A', the petitioner continued in occupation of the Quarter under this Court's order.

4. So, interest of justice will be met in case this Special Civil Application is disposed of in the terms that the petitioner may make a representation to the respondent No.1 for waiving of the charge of rent from him at the market rate for a period beyond the date as given for vacating the Quarter under annexure 'A' till the date he vacated the Quarter. This representation of the petitioner may be considered by the respondent No.1 sympathetically. The respondent No.1 may also consider whether the demand of rent from the petitioner at the market rate for continuing in possession of the Quarter after annexure 'A' can be waived or not. The petitioner shall file such representation within a period of fifteen days from the date of receipt of copy of this order and the respondent No.1 shall decide the same within a period of three months from the date of receipt of such representation and after hearing the petitioner, if he so desires. In case the petitioner's prayer for waiver of the charge of rent at the market rate for the Quarter occupied by him is not acceptable, a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. Till the matter is decided by respondent No.1, interim relief which has been granted by this Court shall continue. However, in case, within the stipulated period, the petitioner fails to submit the representation as aforesaid to the respondent

No.1, this writ petition shall stand dismissed, Rule shall stand discharged and interim relief granted by this Court shall stand vacated automatically.

5. The Special Civil Application is disposed of in aforesaid terms with no order as to costs.

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(sunil)